



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

DOCTORS HOSPITAL AT RENAISSANCE
C/O BURTON & HYDE PLLC
PO BOX 684749
AUSTIN TX 78768-4749

Carrier's Austin Representative Box
#54

MFDR Date Received
NOVEMBER 14, 2006

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-07-1888-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Taken From Request for Reconsideration Letter Dated September 29, 2006: "Please review claim and reprocess for reconsideration. We received partial payment of \$20,476.55. However, there is an outstanding amount of \$11,674.85 for some implants. These implants were provided on the same date of the surgery."

Amount in Dispute: \$11,674.85

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated December 11, 2006: "This dispute involves Texas Mutual's payment on implants for date of service **1/18/2006 to 1/23/2006**. The requester billed **\$114,371.33**; Texas Mutual paid **\$18,240.55**. The requester believes it is entitled to an additional **\$13,549.25**. Texas Mutual is willing to enter into a settlement agreement to pay the additional amount in dispute of \$13,549.25, in return for the requestor to withdraw its request for dispute resolution."

Respondent's Supplemental Position Summary Dated September 8, 2011: "In its original response...Texas Mutual extended a settlement offer to the requestor that was never accepted...Texas Mutual's peer review of the admission concludes in pertinent part, '[Claimant] was electively admitted to Doctors' Hospital for a one-level lumbar spine fusion. After routine preoperative evaluation, he was taken to the operating room on the day of admission and underwent a simple one-level lumbar fusion. According to the postoperative hospital records and the discharge summary, the patient did very well with no postoperative complications identified. He was simply discharged on routine medications to home...Nothing was identified in this patient's medical records which suggested the operative procedure or the hospital course was unusually costly or extensive. The patient had a routine, planned operative intervention that went according to plan. Nothing intraoperative or postoperative was identified which impacted this routine care...' The requestor's DWC-60 packet contains no information substantiating its position (a) that the stop-loss exception has only to exceed \$40,000.00 in audited charges and (b) that the admission was unusually extensive or costly. No additional payment is due."

Responses Submitted by: Texas Mutual Insurance Company, 6210 East Highway 290, Austin, TX 78723

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
January 18, 2006 through January 23, 2006	Inpatient Hospital Services – Revenue Code 278	\$11,674.85	\$11,674.85

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 27 *Texas Register* 12282, applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.027, effective September 1, 2005, sets out the deadline for timely submitting the medical bills to the insurance carrier.
3. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
4. 28 Texas Administrative Code §134.1, 27 *Texas Register* 4047, effective May 16, 2002, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.
5. 28 Texas Administrative Code §134.600, effective March 14, 2004, requires preauthorization for inpatient hospital services.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- CAC-W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.
- CAC-W10 – NO MAXIMUM ALLOWABLE DEFINED BY FEE GUIDELINE. REIMBURSEMENT MADE BASED ON INSURANCE CARRIER FAIR AND REASONABLE REIMBURSEMENT METHODOLOGY.
- CAC-62 – PAYMENT DENIED/REDUCED FOR ABSENCE OF OR EXCEEDED PRE-CERTIFICATION/AUTHORIZATION.
- CAC-97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- *BILLED CHARGES DO NOT MEET THE STOP-LOSS METHOD STANDARD OF THE 08/01/97 ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE. THE CHARGES DO NOT INDICATE AN UNUSUALLY COSTLY OR UNUSUALLY EXTENSIVE HOSPITAL STAY. THE INTENT OF STOP-LOSS PAYMENT IS TO COMPENSATE HOSPITALS FOR INPATIENTS.
- REIMBURSED TO FAIR AND REASONABLE.
- REIMBURSEMENT BASED ON THE ACUTE CARE INPATIENT HOSPITAL FEE GUIDELINE PER DIEM RATE ALLOWANCES.
- LENGTH OF STAY EXCEEDS NUMBER OF DAYS PREVIOUSLY PREAUTHORIZED. DOCUMENTATION DOES NOT SUPPORT MEDICAL.
- DENIED AS INCLUDED IN PER DIEM RATE.
- CAC-W4– NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.
- CAC-143– PORTION OF PAYMENT DEFERRED.
- THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERATION.
- 224– DUPLICATE CHARGE.
- 731– 134.801 & 133.20 PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE OF SERVICE, FOR SERVICE ON OR AFTER 9/1/05.
- 878– DUPLICATE APPEAL. REQUEST MEDICAL DISPUTE RESOLUTION THROUGH DWC FOR CONTINUED DISAGREEMENT OF ORIGINAL APPEAL DECISION
- CAC-29– THE TIME LIMIT FOR FILING HAS EXPIRED.
- 891– THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERATION

Issues

1. Does the submitted documentation support a timely filing issue exist in this dispute?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Does a preauthorization issue exist in this dispute?
6. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services.” Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that “Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. According to the explanation of benefits, the respondent denied/reduced reimbursement for the following revenue codes based upon reason codes “CAC-29 and 731”: 258-Pharmacy IV Solutions; 272-Sterile Supply; and 278-Other Implants.

Texas Labor Code §408.027(a), states “A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.”

The Division finds that these revenue codes were listed on the hospital bill that was submitted timely to the respondent; therefore, the respondent's denial based upon “CAC-29 and 731” is not supported.

2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$114,371.33. The Division concludes that the total audited charges exceed \$40,000.
3. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). Paragraph (6)(A)(ii) states that “This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission.” The Third Court of Appeals' November 13, 2008 opinion states that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services” and further states that “...independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases.” The requestor fails to meet the requirements of §134.401(c)(2)(C) because the requestor does not demonstrate how the services in dispute were unusually extensive in relation to similar spinal surgery services or admissions. The division concludes

that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).

4. 28 Texas Administrative Code §134.401(c)(6) states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The Third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar knee surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(6).

For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement.

5. According to the explanation of benefits, the respondent denied reimbursement for date of service January 21, 2006 through January 23, 2006 based upon reason code “CAC-62.”

28 Texas Administrative Code §134.600(i)(1) states “The health care requiring concurrent review for an extension for previously approved services includes: inpatient length of stay.”

A review of the submitted explanation of benefits dated April 3, 2006 finds that the respondent did not maintain the denial reason and recommended reimbursement of \$2,236.00. Therefore, a preauthorization issue does not exist in this dispute.

6. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

- 28 Texas Administrative Code §134.401(c)(4)(A), states “Additional reimbursements. All items listed in this paragraph shall be reimbursed in addition to the normal per diem based reimbursement system in accordance with the guidelines established by this section. Additional reimbursements apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.”

A review of the submitted Table of Disputed Services finds that the requestor is only seeking dispute resolution for revenue code 278-Other Implants.

- 28 Texas Administrative Code §134.401(c)(4)(A), states “When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274).”
- A review of the submitted medical bill indicates that the requestor billed revenue code 278 for Implants at \$68,308.67.
- The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	Quantity	Cost Invoice	Cost + 10%
OR Floseal Matrix Bone Sealant	2	\$900.00/each	\$1,980.00
OR Tisseel 5ml VH Kit Synthetic Bone	1	\$410.00	\$451.00
Ortho Bone Graft Crushed Cancellous	1	\$394.00	\$433.40
Ortho Bone Graft Grafton Matrix PLF	1	\$1,220.00	\$1,342.00
Ortho Bone Graft Grafton Putty 10cc	1	\$1,085.00	\$1,193.50
Matrix Bone Cellular Osteocel Multi	1	\$5,250.00	\$5,775.00
Ortho Spine Screw (BK) 6.5x35/45 Poly	4	\$1,469.00/each	\$6,463.60
Ortho Spine Screw (BK) 6.5x35/45 Poly	2	\$1,469.00/each	\$3,231.80
Ortho Spine Screw (BK) Lock Set Screws	6	\$160.00/each	\$1,056.00
Bar Rod ISO 65mm	2	\$2,400.00/each	\$5,280.00
Ortho Spine Imp Stimulation Clip	1	\$315.00	\$346.50

Rod Template Spine Blackstone	1	\$176.00	\$193.60
TOTAL	23		\$27,746.60

The division concludes that the total allowable for revenue code 278 is \$27,746.40. The respondent paid \$14,421.55. The difference between total allowable and paid is \$13,324.85; however, the requestor is seeking additional reimbursement for \$11,674.85. This amount is recommended for additional reimbursement.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$11,674.85 additional reimbursement for the services in dispute.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	4/2/2013 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.